

Message

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Subject: News Update: EPA Science Policies Go Under Congressional Microscope (Bloomberg BNA)

EPA

EPA Science Policies Go Under Congressional Microscope

Snapshot

- House bills would put new limits on how EPA uses science to develop regulations
- Bills are awaiting Senate action

By *Maeve Allsup*

Long-sought Republican bills setting new limits on the science driving EPA regulations could mark the first shot in a broader campaign to rein in the agency's authority, scientists told Bloomberg BNA.

"The misleadingly-named Honest and Open New EPA Science Treatment Act and the EPA Science Advisory Board Reform Act are one face of a broader assault on public health safeguards," Joanna Slaney, legislative director for the

Environmental Defense Fund, told Bloomberg BNA, "They're part of an effort to limit EPA's ability to use the best science and scientific advice in protecting the public's health."

The two bills, which have passed the House and await Senate action, would place new limits on the science the Environmental Protection Agency can use to develop its regulations, particularly limits on air pollution, and would update requirements for scientists who serve on the agency's advisory boards. Some scientists fear the bills, if signed into law, would hamper the EPA's ability to craft necessary environmental protections and skew the structure of the Science Advisory Board, which consists of different scientific committees that offer the EPA advice on engineering, risk assessment and other technical issues.

Industry advocates, however, say the bills would increase transparency and public confidence in the EPA's use of science.

"A lot of this research is actually funded by the taxpayer—research that is used to support regulations which impose further costs on those same citizens, who are not allowed to examine all the evidence," Marlo Lewis, senior fellow at the Competitive Enterprise Institute, a free market advocacy group, told Bloomberg BNA.

Senate aides did not respond to requests for comment on when the bills might receive a hearing.

More to Come

"I think that more bills related to the EPA will be coming out," Taylor Eighmy, vice chancellor for research and engagement at the University of Tennessee Knoxville and a former SAB member, told Bloomberg BNA, "as well as more executive actions, as Congress takes advantage of opportunities to manage issues it sees in the agency."

Scientists are bracing for further assaults on the EPA's abilities now that Republicans control the entire government. "To me, what is in the two bills together would be a real blow to the use of peer reviewed scientific evidence to formulate policy," Jonathan Samet, another former SAB member and the director of the University Of Southern California's Institute for Global Health, told Bloomberg BNA. "We're a country that is based on fact and evidence, and this would seem to be a turn away from that tradition."

The bills would alter the EPA's "ability to fundamentally consider and make decisions about health and air quality," Gina McCarthy, the agency's administrator under President Barack Obama, said during an April 26 talk at the Harvard T.H. Chan School of Public Health.

HONEST Act Sponsor Rep. Lamar Smith (R-Texas) said in a March 9 statement that the bill will ensure sound science is the basis of all EPA decisions and regulatory actions. Similar legislation has passed the House with bipartisan support in past congressional sessions, but has failed to pass the Senate. This year's iteration of the bill includes provisions to better protect personally identifiable and confidential information, Smith said.

Despite these additions, the bills are unlikely to pass the Senate, Andrew Rosenberg of the Union of Concerned Scientists told Bloomberg BNA. However, it is possible that the legislation might be attached to must-pass spending bills, Rosenberg said.

Sponsors of the bills and EPA representatives could not be reached for further comment.

Limitations Versus Transparency

Many scientists fear the HONEST Act ([H.R. 1430](#)) would jeopardize public health by restricting EPA's authority to make decisions about air and water quality.

The bill would mandate that the EPA release all the data from studies it uses to justify its regulations, so that it can be reanalyzed, reevaluated and replicated, said Thomas Burke, associate dean for public health practice and training at the Johns Hopkins University. The EPA would not be able to take action, despite evidence of a threat, until all data are available for analysis, Burke told Bloomberg BNA.

However, advocates for the bill say it could actually bolster support for the EPA's actions.

"The long-run effect of 1430 would be to enhance the scientific credibility of the EPA and its rulemakings, making them less likely to be opposed by stakeholders and less likely to be overturned by the courts," John Graham, dean of the Indiana University School of Public and Environmental Affairs, told Bloomberg BNA.

He also doesn't think it would affect the EPA's ability to fund new research.

"EPA may make less use of proprietary models where the owner of the model is not willing to disclose publicly the input data and the algorithms used to generate the modeling results," he said, but the trend in environmental modeling is strongly toward transparency and public disclosure even without the bill.

Environmental advocates argue that many major public health studies are not conducted in carefully controlled lab environments, making them difficult to replicate. The studies often rely on real patient data, which can prevent releasing all of the underlying data.

"Requiring that the underlying data be made public is not always possible," Jay Austin, senior attorney at the Environmental Law Institute, told Bloomberg BNA. "To make that an absolute requirement would take out of the picture a lot of very important health studies."

SAB Facing Membership Decline?

Scientists also fear the EPA Science Advisory Board Reform Act ([H.R. 1431](#)), which would restrict those receiving EPA grants from serving on the board, would deter many experts from accepting membership. That could shift the balance of the advisory board towards industry interests.

The EPA funding restrictions are not necessarily the most significant part of this bill, Eighmy said, because during his time on the board he was not aware of many members currently working under EPA funding. However, an expected reduced role for the advisory board might deter some scientists from participating, he said.

Eliminating Conflict of Interest

While the bill might make the process of assembling experts more onerous, it doesn't change the basic procedures followed by the board as a committee governed by the Federal Advisory Committee Act, Eighmy said. The selection of members for specific committees was an extremely deliberative process with extensive ethics and conflict of interest review that involved high levels of participation from industry scientists, he said.

Others in the field are not so sanguine.

"This bill suggests to me that the people who wrote it think that the science that's being given to EPA by the current SAB is political, not just scientific, and this is their way to respond to that," Holly Doremus, a professor of environmental regulation at the University of California, Berkeley, School of Law, told Bloomberg BNA. "I think that it's intended to be a check on robust EPA action and on strong scientific advice."